

AUG 27 2015

U.S. DISTRICT COURT
W. DIST. OF N.C.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

DOCKET NO. 1:15CR5

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN MICHAEL AWTRY,

Defendant.

**CONSENT ORDER AND
JUDGMENT OF FORFEITURE**

WHEREAS, the defendant, JOHN MICHAEL AWTRY, was found guilty by the Court of one or more criminal offenses under which forfeiture may be ordered;

WHEREAS, the defendant and the United States stipulate and agree that the property described below constitutes property derived from or traceable to proceeds of the defendant's offense(s) herein; property involved in the offenses, or any property traceable to such property; and/or property used in any manner to facilitate the commission of such offense(s); or substitute property for which under 21 U.S.C. 853(p) and Fed. R. Crim. P. 32.2(e); and is therefore subject to forfeiture pursuant to 18 U.S.C. 2253, provided, however, that such forfeiture is subject to any and all third party claims and interests, pending final adjudication herein;

WHEREAS, the defendant herein waives the requirements of Federal Rules of Criminal Procedure 32.2 and 43(a) regarding notice of the forfeiture in the charging instrument, announcement of the forfeiture at sentencing, and incorporation of the forfeiture in the judgment against defendant;

WHEREAS, pursuant to Federal Rules of Criminal Procedure 32.2(b)(1) & (c)(2), the Court finds that there is the requisite nexus between the property and the offense(s) to which the defendant has pleaded guilty and that the defendant has a legal or possessory interest in the property;

WHEREAS, the defendant withdraws any claim previously submitted in response to an administrative forfeiture or civil forfeiture proceeding concerning any of the property described below. If the defendant has not previously submitted such a claim, the defendant hereby waives all right to do so. If any administrative forfeiture or civil forfeiture proceeding concerning any of the property described below has previously been stayed, the defendant hereby consents to a lifting of the stay and consents to forfeiture;

FILED
IN COURT
ASHB, JUDGE, W.C.

AUG 2 1962

U.S. DISTRICT COURT
W. DIST. OF N.C.

WHEREAS, the undersigned United States District Judge is authorized to enter this Order by the previous Order of this Court No. 3:05MC302-C (September 8, 2005);

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

The **following property** is forfeited to the United States:

Compaq Presario desktop computer, serial number CNH5420F6V;

eMachine desktop computer, serial number PTNBA02001941002162700;

Dell Inspiron laptop, serial number 3E80BH1;

Acer laptop, serial number 73800128216;

Maxtor external hard drive, serial number 2CAHNLM0;

Seagate external hard drive, serial number Q11043000QT;

Seagate external hard drive, serial number Q110614032J;

Assorted media save devices, including SD cards, micro SD cards, thumb drives, CD's and DVD's;

eMachine computer, serial number ET133G-05W;

Dell Dimension 4600 desktop computer, serial number 604HN31;

HP Pavillion laptop, serial number CND9294FD9;

Acer laptop, serial number 73:00151116;

Toshiba laptop, serial number 59312611Q; and a

Western Digital external hard drive, serial number WCAU4D2111960.

The United States Marshal and/or other property custodian for the investigative agency is authorized to take possession and maintain custody of the above-described tangible property.

If and to the extent required by Fed. R. Crim. P. 32.2(b)(6), 21 U.S.C. 853(n), and/or other applicable law, the United States shall publish notice and provide direct written notice of this

forfeiture.

Any person, other than the defendant, asserting any legal interest in the property may, within thirty days of the publication of notice or the receipt of notice, whichever is earlier, petition the court for a hearing to adjudicate the validity of the alleged interest.

Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, upon entry of this Order of Forfeiture, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of the property, including depositions, interrogatories, requests for production of documents and to issue subpoenas, pursuant to Rule 45 of the Federal Rules of Civil Procedure.

Following the Court's disposition of all timely petitions filed, a final order of forfeiture shall be entered, as provided by Fed. R. Crim. P. 32.2(c)(2). If no third party files a timely petition, this order shall become the final order and judgment of forfeiture, as provided by Fed. R. Crim. P. 32.2(c)(2), and the United States shall have clear title to the property, and shall dispose of the property according to law. Pursuant to Rule 32.2(b)(4)(A), the defendant consents that this order shall be final as to defendant upon filing.

SO AGREED:



DAVID A. THORNELOE
Assistant United States Attorney



JOHN MICHAEL AWTRY
Defendant



MARY ELLEN COLEMAN
Attorney for Defendant

Signed this 27 day of August, 2015.



MARTIN REIDINGER
United States District Judge
Western District of North Carolina